

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1373 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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BABUBHAI D VANIA

Versus

UNITED COMMERCIAL BANK  
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Appearance:

MR US BRAHMBHATT for Petitioner  
MR Mehul Vakharia for Mr. TUSHAR MEHTA for  
the Respondents.  
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CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 14/12/2000

ORAL JUDGEMENT

The petitioner is an employee of the  
respondent no.2 United Commercial Bank, Kalol branch  
(N.G.) (at present within the jurisdiction of Gandhinagar

district). The petitioner was suspended by an order dated 11.9.91 on the basis that cash of Rs.49,000/-, 2 FDRs, each of Rs.10,000/- each and 2 NSCs of Rs.1000/each were recovered and he was found involved in the theft of demand draft from Rs.10,000/- to Rs.1 lakh and issuing a demand draft from Rs.1 lakh to Rs.10 lakh and he was allowed to receive subsistence allowance on the scale as per Regulation no.14 of UCO Bank Officer Employees (Discipline and Appeal) Regulations, 1976 and he was permitted to receive such other allowances and benefits as per bank's circulars issued from time to time. Departmental inquiry is still pending. It is stated that that criminal case was filed against the petitioner and that is also pending. The petitioner made a representation dated 20th October, 1992 requesting to release the amount which has been deducted for which the petitioner had not authorised the bank to deduct from subsistence allowance. The petitioner also sent another representation dated 25th September, 1992 for the subsistence allowance which he had not received and for calculation and payment of the difference of subsistence allowance without any deduction from the difference of subsistence allowance. The petitioner has also made a representation dated 19th September, 1992 wherein he requested to make only statutory deductions and he authorised the bank to deduct LIC premium only. The Zonal Manager, informed the petitioner by a letter dated 19th November, 1992 that whatever deductions were being made by Kalol branch from the subsistence allowance were justified and the question of payment of difference in subsistence allowance for the months of September, 1991 and March, 1992 would not arise.

2. This petition has been therefore, filed for a direction to the respondent nos. 1 and 2 to draw subsistence allowance after making statutory deductions, if any, i.e. income-tax, professional tax of Rs.20/- per month, optional deductions, LIC premium of Rs.328.40 ps., union fee of Rs.222/- and for a direction to the respondent nos. 1 and 2 to restrain from making any such other deductions except statutory deductions.

3. Heard the learned counsel for the parties and perused the relevant record. The learned counsel for the respondents has filed an affidavit-in-reply. The contention of the learned counsel for the petitioners is that Regulation no.22.10 permits the recovery from subsistence allowance of any employee which reads as under:

"22.10 : Statutory deductions like income-tax

etc. must be made from subsistence allowance. It is permissible for the Bank to make full recoveries from the subsistence allowance where the Bank is the creditor. However, in respect of optional deductions, it would be permissible to make such deductions only in the event of the employee authorising the Bank to make deductions."

4. According to the learned counsel for the petitioner, house building advance, provident fund loan, interest on provident fund, festival advance, consumer loan and vehicle loan fall within the ambit of optional deductions and the petitioner has not authorised the bank to deduct the aforesaid amount. Hence, the petitioner is entitled for those amounts permissible under Rules and Regulations.

5. I have carefully considered the contentions of the learned counsel for the petitioner. The petitioner himself has stated in the petition that he had authorised the deductions regarding premium of LIC. So far as house building advance, consumer loan or vehicle loans are concerned, it cannot be said that the bank is not the creditor in respect of those amounts as these advances must have been sanctioned by the bank and the bank itself has given those advances and loans and for that purpose, the bank will be deemed to be a creditor. Hence, the bank is entitled to recover the house building advance, consumer loan and vehicle loan. As such, the bank is entitled to recover the instalments towards house building advance, consumer loan and vehicle loan.

6. So far as the deductions on account of provident fund, interest on provident fund and festival advance are concerned, there is nothing on record to show that these deductions are statutory deductions or the bank is a creditor. Hence, it is desirable in the facts and circumstances of the case that the petitioner is at liberty to move a representation to the respondent authorities within two months from today in respect of those amounts i.e. provident fund loan, interest on provident fund and festival advance. In case, such a representation is filed within time along with a copy of this judgment, the respondent no.1 will decide the same within one month from the date of receipt of such representation in accordance with law and rules and regulations applicable. The parties are at liberty to move the court concerned for expediting the departmental inquiry and criminal proceedings. Therefore, the petition is dismissed with above observations. Rule is

made absolute accordingly to the above extent with no  
order as to costs.

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